

## Circumstantial Evidence

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### An Adventure in Western Virginia

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The following narrative of a singular and painful adventure in the primeval forests of western Virginia, by one of the early settlers of Kentucky, was found, not long since, among other papers, in an old trunk belonging to a family in this city. It is believed that it has never been published. It might afford an apt illustration of the impropriety of permitting a conviction of a capital offence to be founded on circumstantial evidence. —*N. Y. Ledger.*

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“It was in July, 1783, that I left Richmond to visit some lands my father had given to me, on the western confines of my native State. Virginia at that time extended to the Ohio river, which formed its northern boundary. Traveling was then dangerous. With a population west of the Alleghanies scarcely exceeding five thousand, and an Indian enemy scattered over the country, it was considered an undertaking of no little magnitude to venture on the journey which lay before me. The country had just emerged from a war full of alarm; danger and excitement had become a part of our existence. I had all the enthusiasm of youth, with its ardor and zeal for speculation, and a perseverance which nothing could subdue. Other men had encountered similar dangers, why should I draw back from them? It was a period when men cultivated a certain kind of knight-errantry that sought difficulty, with the expectation of wrestling with it and overcoming it. I was going to a new country; this stimulated my ambition. I would rise with its growth; I might lose my life in frontier warfare; but my name would go down to posterity as one of my country’s early heroes. I had heard of Boone’s adventures, and was determined to be led by his energy as I had been roused by his spirit.

“I communicated my intentions to my family, who opposed my plan, but their tears and entreaties could not deter me from my purpose. My heart was deadened to their remonstrances, by high hopes of the future and by love of adventure, and a feeling which seemed to me patriotism, and which I fancied did me honor. I began my journey and went on, trying to forget home and its comforts, until I reached the summit of the Alleghany mountains, where on looking back, the whole landscape of my native region lay below me. There the silvery Potomac wound its way through a woody vale; there reposed the town of Cumberland, which had been made celebrated by Washington, and a few miles farther on lay our own plantation; the very water I now saw rippling in the breeze would, ere long, pass by its meadows; then I felt alone. There is a solemnity in this sensation which weigh heavily on the heart, and the effort of mind necessary to throw off the burden, only increases the tenderness of the feeling. My tears came freely, and I brushed them away as I descended the mountain at whose foot I expected to pass the night.

Six days I traveled without adventure or alarm, alone with my own thoughts, and my horse for my sole companion. At the end of the sixth day, I found myself within a day’s journey of Boone’s station, and hoped, before another night, to meet my friends who were in the fort. In order to make the last day’s journey easy to myself and my horse, I determined to ride late at night, and encamp on the road, which I had been obliged to do several times, on account of the scarceness of houses or any place of shelter. It was about ten o’clock at night when I heard the sound of distant thunder, and thinking it prudent to provide some covert from the coming storm.

I erected a hasty shelter from materials which lay about such as branches of trees, and strips of bark from decaying trunks, which I was enabled to find by the light of the struggling moonbeams. I had barely time to fasten my horse to a tree, and roll myself in my blanket, when the storm broke over me. The rain descended in torrents, accompanied by vivid lightning and peals of thunder, so loud and frequent, that it seemed as if the whole forest were to be destroyed. Trees were shivering around me; the wind blew a hurricane; it was a war of the elements in its fiercest form. The tree to which I had tied my horse fell with a tremendous crash; his cries were carried away and lost in the roar of the tempest, but I felt no fear, until, amidst one of the most frightful peals that ever fell on mortal ear, I beheld a human face on which the lightning played, and I heard a shriek so shrill, piercing and unnatural, that I started with horror. My limbs trembled; cold drops of sweat were on my forehead; I was so unnerved by the shock as to be unable to move. I tried to rouse myself. 'Fool that I am, thus to be tortured by fancy—it cannot be real.' I still trembled; my very attempt at reaction produced a tumult of feeling, from which I did not entirely recover until the storm had spent itself, and the moon was again visible. I thought I had dreamed, but such was the confusion of my mind, that I could not tell, and I dared not leave my hut to realize what had passed.

“The day dawned upon a scene of desolation, and when I ventured out of my retreat all around me seemed a wreck. The mighty oak and the lofty pine had fallen in indiscriminate ruin. My horse lay crushed near me; I drew my portmanteau, which contained whatever I had provided for my journey, from under the poor creature, and while I stood lamenting over his loss, the same horrid shriek thrilled through me, and hurried me back to the feelings I had endured in the past night. I was palsied. I could not move. Casting my eyes in the direction whence the sound proceeded, I fancied a hundred Indian faces were looking at me from behind the trees. I felt that my death was near, and summoning all my strength to a desperate effort, I rushed to the spot to meet my fate. There was nothing to be seen. I found no one. I cried out, with all the power of my lungs, 'Who are you, and what do you want?' My voice died away among the sounds of the waving trees. I searched again; nothing was to be found. There was a spell upon the spot. I still lingered—lingered and searched the thickets, and sat and mused till the day wore away and night was closing around me, with nothing to interrupt the silence that reigned. I made a slight repast from what I found in the portmanteau, and laid myself down in my old covert, with the resolution that I would prosecute my journey with the morrow's dawn.

“Vexed with myself for yielding to such weak feelings, I at length brought my mind to a state of comparative composure and fell asleep, in the confident hope, that the next night would find me at Boone's station. Suddenly I awoke, I knew not why. I thought someone was breathing near me; I held my breath; the leaves rustled in the passing breeze. I lay down again and slept, but only to awake once more with the same wild scream. I rushed involuntarily to the spot and called out a second time 'Who are you, and what do you want?' In my agitation I fired my pistol. Something fell heavily to the ground—next I heard a groan. The groan struck heavily on my heart; a sound followed as of some heavy creature moving away; perhaps I had murdered a human being! I called out 'Stop! if you are hurt, I will assist you.' Still I heard a rustling through the bushes and a moaning in the distance, until the sound was lost. The tumult of my feelings cannot be described—the crime of murder fastened itself upon my heart and the mental agony I endured was dreadful. How anxiously I waited for day, that I might trace the unhappy being—perhaps it might not be too late to save him. As soon as there was sufficient light, I looked about

me and discovered a track of blood for my guide, leading into the forest. I took and commenced the search, following it in silent horror. The track was soon lost—in vain I tried to regain it beyond. Now everything startled me, and amid the dreadful stillness that surrounded me, I imagined sounds of distress from a passing breeze or a falling leaf. Again, I heard a sigh; that was not fancy; I hurried to the spot from whence it proceeded, and beheld a man—the very being I had murdered—in the agonies of death. ‘Can you forgive me?’ I exclaimed. Such was the intensity of my feelings that I could scarcely give the words utterance. The poor victim raised his hand to his mouth; I ran to a brook and brought him some water in my hat, bathed his forehead, and wet his parched lips. His eyes beamed satisfaction; I raised him in my arms and his head rested on my shoulder. He could not speak; the hope arose within me that he might still live, that I might convince him that my crime was unintentional. After a violent struggle, his eyes became fixed—his hand fell from mine—he was dead.

“I was in despair, irresolute, almost deprived of reason. What was to be done with the body? My first impulse was to proceed on my journey and relate the whole circumstance—but how was I to defend myself from the imputation of murder? After some hesitation I determined to bury my victim. I dug a rude grave with a stake, and placed him in it. As I was heaping the earth over the dead, an arm seized mine and a voice exclaimed, ‘What are you doing?’ I tremblingly answered, ‘Nothing.’ Guilt stared in my face. Who would not have done the same thing? I had no means to establish my innocence, and if I confessed I must die. ‘Nothing?’ said my accuser; ‘is it nothing to commit a murder, and then try to conceal it? There is a man in that grave!’

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“The blood fled my face. I owned myself a manslayer, and with a beating heart related the circumstances. My story was too improbable to be believed. In the meantime the party to which the stranger belonged came up; they heard of the deed which had been committed with looks of horror, and shook their heads at my explanation. The body was dug up and placed on a horse, and I followed with the party.

“I was overcome with grief and the fear of being known by some of my friends in the fort. If possible to keep it from their knowledge, my family must not hear of my ignominious death. My relations at the fort were not advised of my intended journey, and having been very young when they left our neighborhood, I trusted they would not recognize me. In the evening we arrived at the station and I was led to a log hut, as my prison. The news of the murder soon spread; the slain young man was recognized by his brother, whose name was Saunders; the excitement was great; it was with difficulty my life was preserved that night, from the violence of those who thronged about my place of confinement. I prepared myself for the worst.

“The events of the two preceding days had completely exhausted my nervous system, and I fell into a troubled sleep, which did not refresh me. I awoke to feel fresh agitation of mind. I was like the sea, which casts one wave upon another unceasingly. The jailor entered my hut and informed me that in one hour I would be led into court, which, for greater security, was then sitting in the fort. It was with silence and indifference that I received this information; indeed it was rather

satisfactory to think that my trial would soon be over. At the appointed time I followed him. I neither saw nor felt, as I was placed at the bar. The judge asked my name. I was silent. Again he demanded my name. 'You shall never know.' 'It is in our power, young man, to extort it from you.' 'I expect death, and am ready to meet it; I am innocent of intentional crime; no torture shall extort from me my name,' was my reply. 'If you are innocent, you are here to prove it; if guilty, to suffer. Do you know this face?' said he, uncovering the body, which I had not previously noticed. My agitation answered his question. 'If you are innocent, touch his face.' I walked up to the corpse, but such was the intensity of my feeling, that the blood gushed from my nose, and I fell senseless on the floor. It may easily be conceived what effect this produced upon the spectators; not a doubt existed of my guilt. When I recovered I was asked if I was ready for trial. I could only nod assent. The jury were empaneled; the judge appointed me counsel; some of my relations sat in judgement upon me; my mother's brother, who was foreman, brought in the verdict of 'guilty.' One of the jurors who had taken an eager part against me, showed great emotion on the rendering of the verdict, but his agitation was unnoticed, so certain were all parties of my guilt. The judge rose and asked me, 'Have you anything to say, why sentence of death should not be passed upon you?' 'What can I say that you will believe? I have no witnesses. I am innocent of the intention to murder, and am ready to die; let it be early; would to God it were tomorrow.' I heard not the sentence. I was led back to my cell in a state of stupefaction.

After coming to a state of consciousness, I continued half the night in a great agitation. At last my door softly opened and a voice said, 'You are free, follow me.' At first I did not move. My visitor advanced towards me, knocked off my chains and said, 'Put on this disguise and fly.' I fell at his feet and sobbed out 'God bless you.' 'Be calm, or you will betray me; pass out of the door softly—they are all asleep; take this lantern.' I looked up and discovered the juryman who had exhibited so much agitation upon the trial.

"As we passed out into the air, I felt revived and my life appeared renewed. The stranger urged me on. We had passed nearly through the fort, when we heard a shot fired, and a cry was raised, 'The Indians.' In an instant the fort was surrounded with hundreds of savages; in an instant the garrison were engaged with them hand to hand. Knowing that I had no means of escape, I determined to sell my life dearly. I rushed into the hottest of the fight. I seized the musket of a soldier who had fallen, equipped myself with his ammunition, rescued the judge who had condemned me, and hoped to die nobly, as a young man might, who was vigorous, desperate, and without the wish to survive the action. Being protected by my disguise, I was unknown. I saw my preserver in danger when the fight was nearly ended, and rushing to his aid I succeeded in killing his enemy, but it was too late to save him; he had received his death wound. As I raised him in my arms, he cried out 'My crime is punished and you are avenged.' I thought he raved. 'In my pocket,' continued he, 'you will find a paper; it is a confession of my crime and an acknowledgement of your innocence. It was written for your eye.' Having faintly said these words, he expired.

"The fight had ended, the victory was on our side, a crowd had collected around me, and all praised my valor. 'You have saved my life,' said one; 'our honor,' said another; 'and gained the victory,' said a third. 'Who are you?' said the Judge. 'The man you have condemned to death, and I here surrender myself into your hands.' I saw there was a great struggle in his mind; he

grasped my hand and said, in great distress, 'I can not save you.' 'I do not ask you to do so,' said I, 'only believe me innocent, and I will die content.' 'I do,' said he; 'no man who has had the opportunity to escape, as you have had, would have run the risk of a second detention, knowing himself to be guilty. But the law is against you, and it is my duty to see it obeyed.'

"There were many who plead for me; even the brother of the murdered man wished to preserve my life. I thought of the paper; it might save me. 'Read this,' said I, as I drew it from the pocket of my friend. The crowd pressed eagerly round us, and hope glistened in many eyes. To feel that I had sympathy repaid some portion of my past suffering, and to know myself the object of interest to those who had at one time turned against me, gave me new life.

"The paper read as follows:

"Having been for some months on a visit to my friends in Baltimore, I was returning, about ten days since, to my home in the West. After traveling alone for some hours, I overtook Saunders. We had been intimate friends, and our way lay together. This was a source of gratification to both of us; there was danger in the path, and protection was desirable. We rode together in the greatest harmony for a week, and were congratulating ourselves that we were near the end of our journey; twenty-four hours would bring us to the fort. We rode on, but soon concluded to seek shelter and take some refreshment. Our conversation turned upon the friends we had left in Baltimore, and one friend in particular—the girl my friend had loved. I foolishly repeated some gossip which fired him; he denied it warmly. It is needless to relate all that passed; it is enough to say the lie was given, and in a sudden passion I drew my pistol and fired, and Saunders fell from his horse. In an instant I leaped from mine and ran to support him. My passion was gone. I saw expiring before me the friend of my youth. He could just sigh out, 'I forgive you,' and fainted. I thought he was dead. I hung over him in speechless agony; my head burned; my whole frame seemed on fire with the fever of remorse. He opened his eyes but did not speak. "Can you forgive me? Oh, tell me!" He made an effort, but could not articulate. The storm was raging; I did not regard it. I heard the neighing of a horse at some distance, and took Saunders in my arms in the direction of the sound, in the hope of procuring assistance. The lightning inclosed your hut. I looked and saw your face and screamed. No power can describe my emotion. The appearance struck me as supernatural. I fled with my friend, and fortunately found a deserted log cabin, which, in some degree, protected him from the storm. I watched by him the next day; he could not articulate. With what agony I hung over him; how fearful a thing I felt it to be, to be alone in a forest with a being I had murdered, and that being my friend! If assistance could be procured I dared not seek it, for then I must suffer for the crime. I saw you wandering about the woods, and recognized the face I had seen in the hut the previous night. In order to prevent pursuit, I gave a scream which I thought would terrify you, and determined at night to approach your hut. When midnight came I went once more and leaned over you and breathed heavily. You started up and fired. I moved away sluggishly, as if wounded. My plan succeeded; as the day dawned I saw you seeking me, and having placed Saunderson's body in a situation to be discovered, I saw you approach it, and heard you proclaim yourself the murderer. I mounted my horse and retraced my steps, in the hope of meeting some traveler and having you detected. Everything succeeded to my wishes. I soon joined a party, and on coming to the spot where Saunders had fallen, raised their suspicions that a murder had been committed. One of the party discovered you in the act of throwing up earth, What followed I need not repeat. I could not rest until you were

condemned, and when I heard the verdict, all my better feelings stirred within me, and produced a state of excitement not to be described. I had slain one human being, and was now condemning another to death, for my own crime. It was to preserve my own life. Many men pretend to virtue who have never been tempted. I had strong struggles, but the fear of death overcame all my efforts to be virtuous, until at length the right obtained the mastery and I determined to save you; you should not die for my crime. I determined to rescue you, and if I failed, to surrender myself. My mind has become calm since I have made this determination. I have written this justification of you, that in case of any accident happening to myself, you may be saved from an ignominious death, and rescue your character from injustice and disgrace.’

“This account was read and listened to with intense interest; and the hand-writing of its author being verified, I was completely cleared of all suspicion. Having been kindly received by my relations, to whom I made myself known, I was enabled to make for myself a standing in the country, which, fortunately, I have been able to preserve.”

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